

Message Text

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ACTION IO-14

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TAGS: TSPA, PFOR, UN, UR

SUBJECT: OUTERSPACE LEGAL: SCOPE OF MOON TREATY

1. LEGAL SUBCOMMITTEE'S MOON TREATY WORKING GROUP
13 MAY DISCUSSED TREATY SCOPE. THIS RESULTED FROM WG
ACCEPTANCE OF CHAIRMAN'S PROPOSAL FOR ARTICLE-BY-ARTICLE
EXAMINATION OF BULGARIAN WORKING PAPER SETTING OUT TREATY
TEXT WHICH INCORPORATES SOVIET-PROPOSED CHANGES IN NATURAL
RESOURCES ARTICLE PLUS CERTAIN OTHER MODIFICATIONS CON-
CERNING WHICH NO PUBLIC EXPLANATION HAS YET BEEN OFFERED.

2. AS IN OTHER VERSIONS, NEW "BULGARIAN" TEXT SETS OUT
DEFINITIONS AND SCOPE IN ARTICLE I. HOWEVER, SCOPE
PARAGRAPH REFLECTS MODIFICATION OF LAST YEAR'S UK-PROPOSED
COMPROMISE FORMULATION EXTENDING TREATY COVERAGE TO
PLANETS AND OTHER BODIES OF SOLAR SYSTEM BY PROVIDING
THAT REFERENCES TO "MOON" IN TEXT SHALL BE DEEMED TO
APPLY ALSO TO OTHER CBS. WHERE UK PROPOSAL RECOGNIZES
POSSIBLE DESIRABILITY OF NEGOTIATING "SEPARATE ARRANGE-
MENTS" REGARDING INDIVIDUAL CGS COVERED BY TREATY AND SETS
OUT MECHANISM FOR CONVENING CONFERENCE FOR THAT PURPOSE,
BULGARIAN DRAFT PROVIDES THAT PRESENT TREATY SHALL CEASE

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TO BE IN FORCE WITH RESPECT TO ANY CB ON WHICH SUCH SEPARATE

ARRANGEMENT IS CONCLUDED.

3. IN COURSE OF DISCUSSION IT BECAME EVIDENT THAT PRE-PONDERANCE OF DELS NOW ACCEPT EXPANDING TREATY SCOPE IN SOME FORM. HOWEVER, BULGARIAN FORMULATION APPEARED TO BE GAINING CONSIDERABLE SUPPORT AS AGAINST UK, AND UK DEL SAID HE WOULD NOT INSIST ON BRITISH WORKING IF GENERALLY ACCEPTABLE ALTERNATIVE WERE FOUND. SINCE NEITHER VERSION IS ACCEPTABLE TO US, WE THOUGHT IT ADVISABLE TO RESTATE US POSITION ON SCOPE AND ITS FORMULATION.

4. ACCORDINGLY, ALT REP HOENBALL PRESENTED OUR VIEWS IN SOME DETAIL, DRAWING ON INSTRUCTIONS AND ALSO EMPHASIZING THAT HE SPOKE AS REPRESENTATIVE OF USG AGENCY OPERATIONALLY CONCERNED WITH SPACE ACTIVITIES OF TYPE TO BE COVERED BY TREATY. HE NOTED BASIC US POSITIONS ON TREATY SCOPE HAD NOT CHANGED. US IS NOW EXTENSIVELY ENGAGED IN PLANETARY EXPLORATION, PLANS CONSIDERABLY MORE, AND HAS NO PRESENT PLANS FOR MANNED MISSIONS TO THE MOON. ADDITIONAL NEW FOCUS IS SOLAR EXPLORATION, WITH HELIOS MISSION IN CONJUNCTION WITH FRG SET FOR NEAR FUTURE. OTHERS (USSR) ALSO ACTIVE IN PLANETARY EXPLORATION, AS USSR REP HAD POINTED OUT IN HIS GENERAL DEBATE STATEMENT. UNDER THESE CIRCUMSTANCES, ALT REP CONTINUED, IT WOULD BE VERY DIFFICULT TO PERSUADE US LEGISLATORS TO GIVE ADVICE AND CONSENT TO RATIFICATION OF TREATY WHICH STATED ITS APPLICABILITY TO OTHER BODIES OF SOLAR SYSTEM BESIDES MOON IN SO CONDITIONAL MANNER AS UK AND ESPECIALLY BULGARIAN FORMULATIONS DO, AND THUS DISTORTED BALANCE OF EMPHASIS ON WHAT TREATY COVERS. THUS, REFERENCE TO "OTHER CELESTIAL BODIES" (APPROPRIATELY DEFINED) THROUGHOUT TEXT WAS MINIMUM WE COULD ACCEPT.

5. ON MERITS, HOENBALL ADDED, US OPERATING AGENCY HAD FOUND NOTHING IN DRAFT TREATY WHICH WOULD NOT APPLY WITH EQUAL FORCE TO ACTIVITIES WITH RESPECT TO ALL CBS SUBJECT OF EXPLORATION; IF CONDITIONS SHOULD SUBSEQUENTLY BE DISCOVERED ON PARTICULAR CB CALLING FOR SPECIAL TREATMENT, THIS COULD BE DONE VIA PROTOCOL TO PRESENT TREATY RATHER THAN SEPARATE TREATY INSTRUMENT. TO TAKE LATTER COURSE, LIMITED OFFICIAL USE

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AS SUGGESTED BY UK AND BULGARIA FORMULATIONS, WOULD LEAD TO AWKWARD DRAFTING PROBLEMS WITH PARTICULAR HAZARD OF REPEATED REDUNDANCY OF PROVISIONS ACTUALLY SET OUT DEFINITELY IN OUTER SPACE TREATY. WE CONTINUE TO MAINTAIN, HE CONCLUDED, THAT OST MUST REMAIN PRIMARY DOCUMENT GOVERNING SPACE ACTIVITIES.

6. USSR INTERVENED BRIEFLY, STATING THERE WERE THREE

ACTUAL ALTERNATIVES REGARDING SCOPE: (A) MOON ALONE;
(B) MOON AND OTHER CBS CONDITIONALLY; (C) MOON AND OTHER
CBS DEFINITELY. WITHOUT STATING WHICH ALTERNATIVE
USSR NOW SUPPORTS, SOVDEL MERELY SAID USSR INSISTS THAT
SCOPE BE LAST UNRESOLVED ISSUE IN TREATY TO BE DEALT WITH;
ON PRACTICAL BASIS RESOURCES AND MISSION REPORTING QUES-
TIONS MUST BE SETTLED FIRST. DISCUSSION THEN TURNED TO
RESOURCES (SEPTEL).

7. COMMENT: IT SEEMS CLEAR THAT USSR HAS TACITLY AGREED
TO EXPANDED TREATY SCOPE. HOWEVER, IT MAY STILL RESIST
FORMULATION ACCEPTABLE TO US. ADDED COMPLICATING FACTOR
IS WISH OF SOME DELS (E.G., ARGENTINA) TO EXPAND TREATY
TO COVER ALL OTHER CBS, NOT JUST THOSE OF SOLAR SYSTEM.
WE TRIED TO EXPLAIN GROUNDS FOR LIMITED SCOPE EXPANSION
TO ARGENTINE REP; IT WAS UNCERTAIN TO WHAT DEGREE HE
WAS CONVINCED. WE BELIEVE, HOWEVER, THAT GROUNDS OF
PRACTICALITY (SOLAR SYSTEM BEING EXTENT OF WHAT CAN
BE EXPLORED IN MANNER RELEVANT TO TREATY WITHIN DISCERNIBLE
FUTURE) MAY PROVE PERSUASIVE TO MOST DELS. IN ADDITION,
WE ARE CONTINUING TO STRESS OUR VIEW THAT OST, WHICH
OF COURSE APPLIES TO ALL CBS, REMAINS BASIC TREATY ON
SPACE EXPLORATION WHOSE VALIDITY WILL NOT BE AFFECTED
BY MOON TREATY. WHENEVER ONE MAY BE AGREED UPON. ABRAMS

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